

STATE OF NEW YORK

DEPARTMENT OF TAXATION AND FINANCE  
BOARD OF CONFERES - CORPORATION TAX BUREAU

In the Matter of the Application

of

UNITED STATES PIPE AND FOUNDRY COMPANY

for revision or refund of franchise tax  
for the calendar year 1963 under Article  
9-A of the Tax Law.

Hearing Case  
No. 6250

On March 16, 1964 the taxpayer filed its report for the calendar year 1963 and computed the following tax:

Entire Net Income	\$6,730,498.21
Business allocation	00.98473%
Allocated net income	66,277.24
Tax at 5½%	3,645.25

A timely application for revision or refund was filed on March 16, 1967. In addition, claims for refund were filed for the calendar years 1964, 1965 and 1966.

The application and claims for refund read, in part, as follows:

"Our claim is made pursuant to Reg. Sec. 1.6 g., Example 1 which states: "A foreign manufacturing corporation has its factory outside New York. Its only activity in New York is the solicitation of orders for its products through traveling salesmen of a sales office. The orders are forwarded to its home office outside the state for acceptance and the merchandise is shipped by common carrier from the factory direct to the purchasers. The corporation is not subject to the New York franchise tax, because its sole activities in New York are in interstate commerce."

"This Company's business activities come within the provisions of the section as stated above."

CT-245 forms for the calendar years 1963 through 1966 show that the taxpayer had sales solicitation offices in Syracuse, Buffalo and New York City, at which were employed ten to twelve sales representatives and clerks. The only assets in New York State consisted of furniture, fixtures, office machinery and automobiles.

This Board agrees with the taxpayer that its sole activities in New York are in interstate commerce and we recommend that the taxes for the calendar years 1963 through 1965 be cancelled and refund be given of payments made for the calendar year 1966.

/s/

W. F. SULLIVAN

Chairman

/s/

D. H. GILHOLLY

Approved

/s/

J. J. GENEVICH

E. A. DORAN

WFS:MB  
5/5/67

Approved JAMES R. MACDUFF 5/10/67

APPROVED: WALTER MACLYN CONLON 9 MAY '67